

AMENDED IN ASSEMBLY AUGUST 27, 1997

AMENDED IN ASSEMBLY AUGUST 12, 1997

AMENDED IN ASSEMBLY JULY 9, 1997

SENATE BILL

No. 1145

Introduced by Senator Burton

February 28, 1997

An act to amend Sections 6086.65, 6140, 6140.3, and 6140.4 of, and to add and repeal Section 6140.17 of, the Business and Professions Code, relating to the State Bar of California.

LEGISLATIVE COUNSEL'S DIGEST

SB 1145, as amended, Burton. State Bar of California: membership fees.

(1) Existing law provides that any decision or order reviewable by the Review Department of the State Bar Court and issued by a judge of the State Bar Court may be reviewed only upon timely request of a party to the proceeding and not on the Review Department's own motion. Existing law also authorizes the board to provide by rule that other decisions or orders reviewable by the Review Department may be reviewed only upon timely request of a party to the proceeding and not on the Review Department's own motion.

This bill would repeal this authorization and would provide that, *unless otherwise provided by a rule of practice or procedure approved by the Supreme Court*, the party requesting review shall have the burden of showing certain information.

(2) Existing law establishes annual membership fees for members of the State Bar of California for the years 1996 and 1997, but does not establish membership fees for later years.

This bill would establish annual membership fees for the years 1998 and 1999 at levels that are \$20 less than the fee levels established for the years 1996 and 1997 and would extend the repealer in the provision to January 1, 2000.

(3) Existing law authorizes the Board of Governors of the State Bar to increase the annual membership fees by an additional amount not exceeding \$10 to be used only for the costs of financing, constructing, purchasing, or leasing facilities to house State Bar staff and for any major capital improvement projects related to facilities owned by the bar.

This bill would require the board to rebate to all active members additional revenue, as specified, received from the sale of a state bar facility that is in excess of the amount projected from that sale as contained in certain budget documents for the 1998 and 1999 fiscal years. It would also require the board to submit a report to the Chairpersons of the Assembly Committee on Judiciary and Senate Committee on Judiciary, respectively, by November 15, 1998, in response to the recommendations contained in the audit of the State Bar conducted by the State Auditor, and would require the report to outline steps taken by the State Bar to implement the recommendations, or where recommendations were not implemented, the reason or reasons why these recommendations were not implemented.

(4) Existing law, until January 1, 1998, requires the board to increase the annual membership fees by an additional fee of \$110 to be used exclusively for discipline augmentation.

This bill would continue that requirement for the years 1998 and 1999 and would also extend the repealer in the provision to January 1, 2000.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6086.65 of the Business and
2 Professions Code is amended to read:



1 6086.65. (a) There is a Review Department of the
2 State Bar Court, which consists of the Presiding Judge of
3 the State Bar Court, one Lay Judge, and one Review
4 Department Judge. The judges of the Review
5 Department shall be nominated, appointed, and subject
6 to discipline as provided by subdivision (a) of Section
7 6079.1, shall be qualified as provided by subdivision (b) of
8 Section 6079.1, and shall be compensated as provided for
9 the Presiding Judge by subdivision (d) of Section 6079.1.
10 However, the Lay Judge, who shall be a person who has
11 never been a member of the State Bar or admitted to
12 practice law before any court in the United States, and
13 the Review Department Judge may be appointed to, and
14 paid as, positions occupying one-half the time and pay of
15 the Presiding Judge. Candidates shall be rated and
16 screened by the board as provided in subdivision (c) of
17 Section 6079.1.

18 (b) The board may fix a date no later than September
19 1, 1989, on which all proceedings pending before the
20 Review Department shall be decided by judges of the
21 Review Department appointed under this section. The
22 Review Department in existence on June 30, 1989, may
23 continue on and after July 1, 1989, to exercise the duties
24 and powers under prior Section 6086.6 as to any matter
25 assigned to it prior to the date set by the board pursuant
26 to this section.

27 (c) The Presiding Judge of the State Bar Court shall
28 appoint an Executive Committee of the State Bar Court
29 of no fewer than seven persons, including one person who
30 has never been a member of the State Bar or admitted to
31 practice law before any court in the United States. The
32 Executive Committee may adopt rules of practice for the
33 operation of the State Bar Court as provided in Section
34 6086.5.

35 (d) Any decision or order reviewable by the Review
36 Department and issued by a judge of the State Bar Court
37 appointed pursuant to Section 6079.1 may be reviewed
38 only upon timely request of a party to the proceeding and
39 not on the Review Department's own motion. ~~The~~ *Unless*
40 *otherwise provided by a rule of practice or procedure*



1 *approved by the Supreme Court, the party requesting*
2 *review shall have the burden of showing one of the*
3 *following:*

4 (1) The Hearing Department did not proceed in the
5 manner required by law.

6 (2) The findings of the Hearing Department are not
7 supported by substantial evidence.

8 (3) The decision or recommendation of the Hearing
9 Department is clearly erroneous ~~or unlawful~~.

10 SEC. 2. Section 6140 of the Business and Professions
11 Code is amended to read:

12 6140. (a) The board shall fix the annual membership
13 fee for 1998 and 1999 as follows:

14 (1) For active members who have been admitted to
15 the practice of law in this state for three years or longer
16 preceding the first day of February of the year for which
17 the fee is payable, at the sum of two hundred seventy-one
18 dollars (\$271).

19 (2) For active members who have been admitted to
20 the practice of law in this state for less than three years
21 but more than one year preceding the first day of
22 February of the year for which the fee is payable, at the
23 sum of two hundred three dollars (\$203).

24 (3) For active members who have been admitted to
25 the practice of law in this state during, or for less than one
26 year preceding the first day of February of, the year for
27 which the fee is payable, at a sum not exceeding one
28 hundred seventy-two dollars (\$172).

29 (b) The annual membership fee for active members is
30 payable on or before the first day of February of each
31 year. If the board finds it appropriate and feasible, it may
32 provide by rule for payment of fees on an installment
33 basis with interest, by credit card, or other means, and
34 may charge members choosing any alternative method of
35 payment an additional fee to defray costs incurred by that
36 election.

37 This section shall remain in effect only until January 1,
38 2000, and as of that date is repealed, unless a later enacted
39 statute, that is chaptered before January 1, 2000, deletes
40 or extends that date.



1 SEC. 3. Section 6140.17 is added to the Business and
2 Professions Code, to read:

3 6140.17. (a) The board shall submit a report to the
4 Chairpersons of the Assembly Committee on Judiciary
5 and the Senate Committee on Judiciary, respectively, by
6 November 15, 1998, in response to the recommendations
7 contained in the audit of the State Bar conducted by the
8 State Auditor, including the recommendation that the
9 State Bar charge all costs for section programs to those
10 who participate in these programs. This report shall
11 outline steps taken by the State Bar to implement the
12 recommendations, or where recommendations were not
13 implemented, the reason or reasons why these
14 recommendations were not implemented.

15 (b) This section shall remain in effect only until
16 January 1, 1999, and as of that date is repealed, unless a
17 later enacted statute, that is enacted before January 1,
18 1999, deletes or extends that date.

19 SEC. 4. Section 6140.3 of the Business and Professions
20 Code is amended to read:

21 6140.3. (a) The board may increase the annual
22 membership fee fixed by Section 6140 and the annual
23 membership fee specified in Section 6141 by an additional
24 amount not exceeding ten dollars (\$10). This additional
25 amount may be used only for (1) the costs of financing,
26 constructing, purchasing, or leasing facilities to house
27 State Bar staff and (2) any major capital improvement
28 projects related to facilities owned by the bar.

29 (b) At least 30 days prior to entering into any
30 agreement for the construction, purchase, or lease of a
31 facility in San Francisco, the State Bar shall submit its
32 preliminary plan and cost estimate for the facility to the
33 Judiciary Committees of the Legislature for review. The
34 documents submitted shall include an analysis
35 demonstrating that the costs of financing, constructing,
36 purchasing, or leasing the facility can be supported by the
37 revenues authorized by this section.

38 (c) The board shall rebate to all active members
39 additional revenue received from the sale of a facility
40 located at 555 Franklin Street in San Francisco that is in



1 excess of the amount projected from that sale as
2 contained in the budget documents required by Section
3 6140.1 for the 1998 and 1999 fiscal years. This amount shall
4 be rebated in equal amounts in 1998 and 1999. In no event
5 shall this amount be less than ten dollars (\$10) per active
6 member per year.

7 SEC. 5. Section 6140.4 of the Business and Professions
8 Code is amended to read:

9 6140.4. (a) For 1998 and 1999, the board shall
10 increase the annual membership fee fixed by it pursuant
11 to Section 6140 by an additional fee of one hundred ten
12 dollars (\$110) to be used exclusively for discipline
13 augmentation.

14 (b) This augmentation shall be in addition to existing
15 levels of expenditure for discipline as established during
16 1987 for 1988.

17 (c) This section shall remain in effect until January 1,
18 2000, and as of that date is repealed, unless a later enacted
19 statute, that is chaptered before January 1, 2000, deletes
20 or extends that date.

